

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 0000054498	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/004344	International filing date (day/month/year) 23.04.2004	Priority date (day/month/year) 30.04.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant BASF AKTIENGESELLSCHAFT		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 1 sheets, as follows: <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:
<input checked="" type="checkbox"/> Box No. I Basis of the report <input checked="" type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/004344

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

international search (Rule 12.3 and 23.1(b))
 publication of the international application (Rule 12.4)
 international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

the international application as originally filed/furnished
 the description:
 pages 1-8 _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____

the claims:
 nos. _____ as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* 1-9 received by this Authority on 27.01.2005 with the letter of 24.01.2005
 nos.* _____ received by this Authority on _____

the drawings:
 sheets _____ as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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International application No.

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Box No. II Priority

1. This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the requested:
 copy of the earlier application whose priority has been claimed (Rule 66.7(a)).
 translation of the earlier application whose priority has been claimed (Rule 66.7(b)).
2. This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rule 64.1). Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/EP2004/004344

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
1. Statement		
Novelty (N)	Claims	1 - 9
	Claims	_____
Inventive step (IS)	Claims	_____
	Claims	1 - 9
Industrial applicability (IA)	Claims	1 - 9
	Claims	_____

2. Citations and explanations (Rule 70.7)

Reference is made to the following document:

D1: US-A-5 852 219 (HOFEN WILLI ET AL)
22 December 1998 (1998-12-22)

The current application does not meet the requirements of PCT Article 33(1) for the following reasons:

1.1 D1 (closest prior art; claims 1, 7, 8 and 12; example 1; table 2) discloses a catalyst, during the production of which tungstic acid is dissolved using an ammoniacal solution and CsOH is then added. The solution is then applied to an aluminium oxide support. The solution has a pH of 8-14. The solution contains both alkali tungstate and ammonia from the neutralisation of the tungstic acid. The catalyst is used to produce methyl mercaptan by reacting H₂S and MeOH in a molar ratio of 1.5.

The catalyst obtained according to example 1 of D1 has a pH of 9.9 (determined using the method

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International application No.
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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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indicated in the current application), as shown by the applicant in the appended test report.

Independent claims 1 (product) and 8 (method) are thus novel over D1.

The examples of the application show an effect linked to pH for potassium tungstate. However, each example uses different reagents (ammonium phosphate, ammonium sulphate, ammonium sulphide), and therefore no direct comparison is possible.

Consequently, the subject matter of at least claims 1 and 8 does not involve an inventive step (PCT Article 33(3)).

1.2 Dependent claims 2-7 and 9 do not appear to contain any additional features which, in combination with the features of any claim to which they refer back, meet the PCT requirements for novelty and inventive step, since the additional features defined therein are either known from the prior art (see above) or are within the competence of a person skilled in the art wishing to develop alternative catalysts or methods of production.